REMARKS/ARGUMENTS

This application has been carefully reviewed in light of the Office Action dated August 5, 2008. By way of this amendment after final, claims 3-9 and 12-20 have been amended to provide proper antecedent basis and claims 10 and 11 remain as previously presented. A Declaration under 37 C.F.R. 1.132 by co-inventor Douglas A. Curtis is filed along with this paper. It is believed that this application is now in condition for allowance. Such action at an early date is respectfully requested.

Claims 3-9 and 12-18 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims have been amended accordingly.

Claims 10-12 stand rejected under 35U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in Figures 5 and 6 of the presently filed application.

Claims 3 and 19-20 stand rejected under 35U.S.C. 103(a) as being unpatentable over applicants' admitted prior art in Figures 5 and 6 in view of Jang (5,601,118), Riffe (5,346,373), and Kandpal (5,266,016).

Claims 4-9 and 13-18 stand rejected under 35U.S.C. 103(a) as being unpatentable over applicants' admitted prior art in Figures 5 and 6 in view of Brand (6,089,272) and Knox (5,217,797).

MPEP 2129 provides that:

A statement by an applicant in the specification or made during prosecution

> identifying the work of another as "prior art" is an admission which can be relied upon for both anticipation and obviousness determinations, regardless of whether the admitted prior art would otherwise qualify as prior art under the statutory categories of 35 U.S.C. 102. Riverwood Int'l Corp. v. R.A. Jones & Co., 324 F.3d 1346, 1354, 66 USPQ2d 1331, 1337 (Fed. Cir. 2003); Constant v. Advanced Micro-Devices Inc., 848 F.2d 1560, 1570, 7 USPQ2d 1057, 1063 (Fed. Cir. 1988). However, even if labeled as "prior art," the work of the same inventive entity may not be considered prior art against the claims unless it falls under one of the statutory categories. Id.; see also Reading & Bates Construction Co. v. Baker Energy Resources Corp., 748 F.2d 645, 650, 223 USPQ 1168, 1172 (Fed. Cir. 1984) ("[W]here the inventor continues to improve upon his own work product, his foundational work product should not, without a statutory basis, be treated as prior art solely because he admits knowledge of his own work. It is common sense that an inventor, regardless of an admission, has knowledge of his own work.").
> (Emphasis added).

The attached declaration by co-inventor Douglas A. Curtis provides evidence that the inventive concepts shown in admitted prior art Figures 5 and 6 are of the inventors' own conception, and absent a showing that the inventive concepts of admitted prior art Figures 5 and 6 fall within one of the statutory categories of prior art, applicants' admitted prior art cannot be considered prior art against the claims of the currently filed application under MPEP 2129.

Accordingly, applicants submit that the rejection based on admitted prior art is improper. All of the claims currently stand rejected in part based on applicants' admitted prior art, and therefore, all of the claim rejections are requested to be withdrawn. The applicants respectfully submit that, for the foregoing reasons, claims 10 and 19 are now in condition for allowance. The applicants respectfully submit that because claims 20 and 3-9 depend directly or indirectly from claim 19 and claims 11-18 depend from claim 10, they too

are in condition for allowance.

A one month extension of time is requested for this application. The Director is hereby authorized to charge any additional fees or any underpayments which may be required for the above-referenced application to Deposit Account No. 01-0265.

Respectfully submitted,

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